

Filed
8/31/2017 8:03 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

**IN THE COUNTY COURT
OF NUECES COUNTY, TEXAS
COUNTY COURT AT LAW NO. _____**

HERRMAN PROPERTIES, LLC,	§	
	§	
PLAINTIFF,	§	CAUSE NO. 2017CCV-61631-2
	§	
VS.	§	
	§	
STAR STONE NATIONAL INSURANCE	§	
COMPANY, WELLINGTON CLAIMS	§	
SERVICES, INC., MICHAEL MASSEY,	§	
ABJ ADJUSTERS, INC. AND JAMES	§	
POTTER,	§	
	§	
DEFENDANTS.	§	

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff, Herrman Properties LLC, in the above-styled and numbered cause, and files this original petition and request for disclosure against Defendants, Star Stone National Insurance Company, Wellington Claim Services, Inc., Michael Massey, ABJ Adjusters, Inc., and James Potter (referred to herein collectively as "Defendants" or individually by name).

I.

DISCOVERY

1.1 Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure, Rule 190.

II.

PARTIES

2.1 Plaintiff is a limited liability corporation with its principal place of business in Nueces County, Texas.

2.2 Defendant, Star Stone National Insurance Company (hereinafter referred to as “Star Stone”) is a foreign limited liability corporation and may be served with citation in this action by serving its registered agent, CT Corporation System at 1999 Bryan St., Suite 900, Dallas, Texas 75201-3140, by process server.

2.3 Defendant, Wellington Claims Services, Inc. (hereinafter referred to as “Wellington”) is a foreign limited liability corporation and may be served with citation in this action by serving its registered agent, Corporation Service Company at 211 East 7th St., Suite #620, Austin, Texas 78701, by process server.

2.4 Defendant, Michael Massey, is an individual who may be served at his place of business, Wellington Claims Services, Inc., P.O. Box 1116, Forth Worth, Texas, 76101, by certified mail, return receipt requested.

2.5 Defendant, ABJ Adjusters, Inc. (hereinafter referred to as “ABJ”) is a foreign limited liability corporation and may be served with citation in this action by serving its registered agent, William Vincent at 5503 Louetta Road, Suite A, Spring, Texas 77379, by process server.

2.6 Defendant, James Potter, is an individual who may be served at his place of business, ABJ Adjusters, Inc., 4814 Cain Drive B, Corpus Christi, Texas 78411, by process server.

III.

JURISDICTION

3.1 The Court has jurisdiction over the controversy because Plaintiff's damages are within the jurisdictional limits of the Court.

IV.

VENUE

4.1 Venue is proper in Nueces County, Texas. Specifically, venue under the Deceptive Trade Practices Act (DTPA) is proper in Nueces County under Texas Business & Commerce Code Section 17.56 and the Texas Civil Practice and Remedies Code §15.002(a)(1) because all of the events giving rise to this claim occurred in Nueces County, Texas.

V.

FACTUAL ALLEGATIONS

5.1 Plaintiff is a corporation that owns property located at 719 Ayers St., Corpus Christi, Texas 78404. Plaintiff is a named insured and has been a policy holder. Plaintiff purchased an insurance policy, policy no. TNI-8197, with Defendant Star Stone, with a policy period effective date of June 1, 2016 through June 1, 2017 that was applicable to this property. This agreement was entered into by Plaintiff and Star Stone on May 16, 2016. This policy provided peril coverage, and more specifically, coverage for any types of vandalism to the property.

5.2 Plaintiff purchased this insurance from Defendant Star Stone in order to provide protection in the event of any covered damages to their property. At all times, Plaintiff has fully paid Defendant Star Stone.

5.3 Plaintiff's property at 719 Ayers St. was damaged by acts of vandalism during the coverage period. The Plaintiff, in good faith and out of concern for the welfare of the property, made repairs to the property soon thereafter.

5.4 Plaintiff submitted proof of the damages to their property and the costs of their repairs to Defendants. Defendants, upon inspection of the property and review of the documentation provided to them by the Plaintiff, determined that the replacement cost for the vandalized property was \$5,470.84. They issued a check to Plaintiff for \$2,537.96, the amount they deemed to make the Plaintiff whole under the terms of their insurance policy, less the non-recoverable depreciation of \$581.88 and the deductible of \$2,351.00.

5.5 Plaintiff spent upwards of \$50,000.00 to repair the vandalized property. The Defendants failed in their duty to properly provide the Plaintiff with the benefits they are entitled to receive via policy no. TNI-8197 with Star Stone.

VI.

JOINT-ENTERPRISE LIABILITY

6.1 Defendants Star Stone National Insurance Company, Wellington Claim Services, Inc., Michael Massey, ABJ Adjuster, Inc., and James Potter are liable for the acts of all other Defendants because at the time of the determination of covered damages from acts of vandalism, which Plaintiff is contractually entitled to, Defendants were engaged in a joint enterprise. Defendants had an agreement, a common purpose, a community of pecuniary interest in that common purpose, and an equal right to direct and control the enterprise.

6.2 At the time of the determination of covered damages from acts of vandalism, which Plaintiff is contractually entitled to, all Defendants were acting within the scope of the enterprise.

VII.

CAUSES OF ACTION

Count 1 – Breach of Contract

7.1 The foregoing allegations are incorporated herein by reference the same as if reprinted here in full. Plaintiff sues Defendants for breach of contract.

7.2 On May 16, 2016, Plaintiff and Defendant Star Stone executed a valid and enforceable written contract. Defendant Star Stone breached their contract with Plaintiff in that (1) Plaintiff and Defendant Star Stone had a valid, enforceable contract; (2) Plaintiff and Defendant Star Stone are in privity; (3) Plaintiff performed, tendered performance, or was excused from performing its contractual obligation; (4) Defendant Star Stone breached the contract; and (5) Defendant Star Stone's breach caused Plaintiff damages.

Count 2 – Violation of Texas Insurance Code Art. 21.21

7.3 The foregoing allegations are incorporated herein by reference the same as if reprinted here in full.

7.4 Additionally, and/or alternatively, Defendants also committed an unfair or deceptive insurance practice in violation of Article 21.21 of the Texas Insurance Code in that: (1) Plaintiff is a person as defined by Art. 21.21, section 2(a); (2) Defendants are persons as defined by Art. 21.21, section 2(a); (3) Defendants violated Art. 21.21; (4) Texas Business and Commerce Code §17.46(b) by, among other acts and/or omissions, engaged in misrepresentations regarding insurance. The specific acts of Defendants include, but are not limited to:

- a) making an untrue statement of material fact;
- b) failing to state a material fact that is necessary to make other statements made not misleading, considering the circumstances under which the statements were made;

- c) making a statement in such manner as to mislead a reasonably prudent person to a false conclusion of a material fact;
- d) making a material misstatement of law; and,
- e) failing to disclose any matter required by law to be disclosed, including a failure to make disclosure in accordance with another provision of this Code;
 - i. misrepresenting to Plaintiff a material fact or policy provision relating to the coverage at issue;
 - ii. not attempting in good faith to bring about a prompt, fair, and equitable settlement of a claim once the insurer's liability becomes reasonably clear;
 - iii. not promptly giving Plaintiff a reasonable explanation, based on the policy as it relates to the facts or applicable law, for the insurer's denial of a claim or for the offer of a compromise settlement claim;
 - iv. not completing either of the following within a reasonable time: affirming or denying coverage of a claim to Plaintiff and/or submitting a reservation of rights to Plaintiff; and/or

- v. refusing to pay a claim without conducting a reasonable investigation.

Plaintiff relied on Defendants' acts and/or omissions to Plaintiff's detriment and such acts and/or omissions were a producing and/or proximate cause of Plaintiff's damages.

Count 3 -- Violation of Texas Insurance Code Art. 21.55

7.5 The foregoing allegations are incorporated herein by reference the same as if reprinted here in full.

7.6 Additionally, and/or alternatively, Defendants violated Article 21.55 of the Texas Insurance Code in that: (1) Plaintiff had a claim under an insurance policy; (2) Plaintiff gave proper notice of its claim to Defendants; (3) Defendants are liable for the claim; (4) Defendants failed to timely: (a) acknowledge, investigate, or request information about the claim; (b) accept the claim; and/or (c) pay the claim.

Count 4 -- Fraud and/or Fraudulent Inducement

7.7 The foregoing allegations are incorporated herein by reference the same as if reprinted here in full. 7.8 Additionally, and/or alternatively, the facts set forth above show that the defendants committed fraud and/or fraudulent inducement against Plaintiff. Defendants' actions and/or inactions constitute fraud in that they made material representations which were false and which Defendants knew were false or made recklessly without any knowledge of their truth and as positive assertions. Defendants made these misrepresentations with the intention that they should be acted upon by Plaintiff, Plaintiff acted on said misrepresentations in reliance upon them and thereby suffered injury. Additionally, and/or alternatively, Defendants' fraudulent representations caused Plaintiff to enter into an agreement which it would not have otherwise entered. Further, such representations were false and Defendants knew they were false and caused Plaintiff's damages. Plaintiff relied upon the misrepresentations and/or omissions to its detriment.

The representations caused Plaintiff's injury. Defendants' actual fraud encompassed intentional breaches of duty that were designed to injure and to obtain undue and unconscientious advantage of Plaintiff. Plaintiff is entitled to actual damages from Defendants. Additionally, such wrongful acts of the Defendants were of such a wanton and malicious nature that the Defendants should be punished with an award of exemplary damages against them.

7.9 Additionally, and/or alternatively, Defendants' fraudulent representations caused Plaintiff to enter into a contract or contracts which it would not have otherwise entered. Further, such representations were false and defendants knew they were false and caused plaintiff's damages.

Count 5 – Negligent Misrepresentation

7.10 The foregoing allegations are incorporated herein by reference, the same as if reprinted here in full.

7.11 Additionally, and/or alternatively, Defendants' conduct constitutes negligent misrepresentation because it made representations to Plaintiff in the course of Defendants' business or in a transaction in which each and/or all had a pecuniary interest. Defendants supplied false information for the guidance of Plaintiff, Defendants did not exercise reasonable care or competence in obtaining or communicating the information, Plaintiff justifiably relied on the representation, and Defendants' actions, taken together or separately, constitute a direct and proximate cause of Plaintiff's damages.

Count 6 -- Breach of Duty of Good Faith and Fair Dealing

7.12 The foregoing allegations are incorporated herein by reference the same as if reprinted here in full.

7.13 Defendants acted in bad faith toward Plaintiff and/or breached a duty of good faith and fair dealing with Plaintiff in that: (1) there was an insurance contract between Plaintiff and Defendants, which created a duty of good faith and fair dealing; (2) Defendants breached their duty when they denied payment in full when the Plaintiff's damages were reasonably clear; and (3) Defendants' breach was the proximate cause of Plaintiff's damages.

Count 7 – DTPA Claim

7.14 Plaintiff is a consumer under the DTPA because Plaintiff is a partnership who acquired goods by purchase.

7.15 Defendant is a corporation that can be sued under the DTPA.

7.16 Defendant violated the DTPA when Defendant violated the following statutes:

- a. Tex. Bus. & Comm. Code §17.50(a)(1);
- b. Tex. Bus. & Comm. Code §17.46(b), subparts (5), (12), (23);
- c. Tex. Bus. & Comm. Code §17.50(a)(2);
- d. Tex. Bus. & Comm. Code §17.50(a)(3); and,
- e. Tex. Bus. & Comm. Code §17.50(a)(4).

7.17 It was impracticable for Plaintiff to give Defendants written notice under Texas Business & Commerce Code Section 17.505(a) because Plaintiff needed to file this suit prior to Texas House Bill 1774's enforcement on September 1, 2017. Plaintiff was not made aware of Defendants' actions until August 16, 2017, and was unable to conduct work in their office and send any kind of notice letter due to the arrival of Hurricane Harvey.

7.18 Defendants' wrongful conduct was a producing cause of Plaintiff's injury, which resulted in the following damages:

- a. Out-of-pocket damages;

b. Benefit-of-the-bargain damages.

7.19 Plaintiff seeks unliquidated damages in an amount within the jurisdictional limits of this Court.

7.20 Defendant acted knowingly, which entitles the Plaintiff to recover treble economic damages under Texas Business & Commerce Code section 17.50(b)(1).

7.21 Defendant acted intentionally, which entitles Plaintiff to recover treble economic damages under Texas Business & Commerce Code section 17.50(b)(1).

7.22 Plaintiff is entitled to recover reasonable and necessary attorney fees for prosecuting this suit under Texas Business & Commerce Code section 17.50(d).

VIII.

REQUEST FOR DISCLOSURE

8.1 The Plaintiff makes this Request for Disclosure to Defendants. Pursuant to Rule 194, you are requested to disclose, within fifty (50) days of service of this request, the information and material described in Rule 194.2 (a) through (l) of the Texas Rules of Civil Procedure.

IX.

JURY DEMAND

9.1 In accordance with RULE 216 OF THE TEXAS RULES OF CIVIL PROCEDURE, Plaintiff hereby makes an application for a jury trial and request that this cause be set on the Court's Jury Docket. Plaintiff acknowledges payment this date of the required jury fee.

X.

PRAYER

10.1 **WHEREFORE, PREMISES CONSIDERED**, Plaintiff requests that Defendants be cited to appear and answer, and on final trial hereafter, the Plaintiff have judgment against

Defendants in an amount within the jurisdictional limits of this Court, together with all pre-judgment and post-judgment interest as allowed by law, costs of Court, and for such other and further relief to which Plaintiff may be justly entitled by law and equity, including, but not limited to:

- a. Economic damages;
- b. Benefit of the bargain;
- c. Reliance damages;
- d. Restitution damages;
- e. Incidental damages;
- f. Out-of-pocket losses including any costs and/or expenses associated with Defendants' actions/inactions;
- g. Expectancy damages, including, but not limited to, cost of delay of performance, cost of mitigation, and/or loss in value;
- h. Treble damages;
- i. Pre-judgment and post-judgment interest;
- j. Court costs;
- k. Attorney fees; and
- l All other relief to which Plaintiff is entitled.

(signature page on next page)

Respectfully submitted,

HERRMAN & HERRMAN, PLLC

The Herrman Building

1201 Third Street

Corpus Christi, Texas 78404

(361) 883-7705 Telephone

(361) 883-7957 Facsimile

For the Firm:

A handwritten signature in black ink, appearing to read 'Neely E. Balko', written over a horizontal line.

Neely E. Balko

State Bar No. 24082652

Email: litigation@herrmanandherrman.com

ATTORNEYS FOR PLAINTIFF,

HERRMAN PROPERTIES, LLC

Filed
8/31/2017 8:03 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

NUECES COUNTY PROCESS REQUEST SHEET

901 LEOPARD STREET ROOM 313 / CORPUS CHRISTI, TEXAS 78401

PHONE # 361-888-0450 / FAX # 361-888-0424

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING.

2017CCV-61631-2
CAUSE NUMBER: _____
DATE OF REQUEST: 08-31-2017

CURRENT COURT: _____
AMOUNT PAID: \$40.00

SERVICE WILL ONLY BE ISSUED UPON PAYMENT OF COST!

TYPE OF SERVICE/PROCESS TO BE ISSUED

Citations

NAME OF DOCUMENT/PLEADING TO BE SERVED

Plaintiff's Original Petition and Requests for Disclosure

SERVICE BY:

☒ **ATTORNEY FOR PICK UP** ☐ **ATTORNEY RETURN BY MAIL** ☐ **CONSTABLE / SHERIFF** ☐ **NO SERVICE**

☐ **CIVIL PROCESS SERVER:**

AUTHORIZED PERSON: _____ **PHONE:** _____

1 defendant
only by:

☒ **CERTIFIED MAIL** ☐ **RESTRICTED DELIVERY**

☐ **COURTHOUSE POSTING** **# OF DAYS TO BE POSTED:** _____

BRIEF STATEMENT OF SUIT (USE REVERSE SIDE)

☐ **PUBLICATION**

NAME OF PUBLICATION: _____

OF DAYS TO BE PUBLISHED: _____

BRIEF STATEMENT OF SUIT (USE REVERSE SIDE)

PARTY/PARTIES TO BE SERVED: by process server

<p>[1] NAME/AGENT Star Stone National Insurance Company</p> <p>ADDRESS registered agent: CT Corporation System 1999 Bryan St., Suite 900, Dallas TX 75201-3140</p>	<p>Wellington Claims Services, Inc. by process server</p> <p>registered agent: Corporation Service Company 211 East 7th St., Suite #620, Austin TX 78701</p>
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<p>[2] NAME/AGENT Michael Massey</p> <p>ADDRESS Wellington Claims Services, Inc. P.O. Box 1116, Fort Worth TX 76101 By Certified Mail - return receipt requested</p>	<p>ABJ Adjusters, Inc. registered agent: William Vincent 5503 Louetta Road, Suite A, Spring TX 77379 by process server</p>	<p>James Potter</p> <p>ABJ Adjusters, Inc. 4814 Cain Drive B, Corpus Christi TX 78411 by process server</p>
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ATTORNEY OR PARTY REQUESTING ISSUANCE OF PROCESS:

NAME Neely E. Balko **ATTORNEY BAR #** 24082652

MAILING ADDRESS 1201 Third Street, Corpus Christi, Texas 78404

PHONE # (361) 882-4357 **FAX #** (361) 883-7957

ATTORNEY REPRESENTS: **PLAINTIFF** ☒ **DEFENDANT** _____ **OTHER** _____

Filed

8/31/2017 8:03 PM

Anne Lorentzen

District Clerk

Nueces County, Texas

CIVIL CASE INFORMATION SHEET (REV. 2/13)

2017CCV-61631-2

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

STYLED Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, ABJ Adjusters, Inc. and James Potter (e.g., John Smith v. All America Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Name of parties in case:		Person or entity completing sheet is:	
Name: <u>Neely E. Balko</u> Email: <u>Nbalko@herrmanandherman.com</u> Address: <u>1201 Third Street</u> City/State/Zip: <u>Corpus Christi, Texas 78404</u> Signature: <u>/s/ Neely Balko</u> Telephone: <u>(361) 882-4357</u> Fax: <u>(361) 883-7957</u> State Bar No: <u>24082652</u>		Plaintiff(s)/Petitioner(s): <u>Herrman Properties, LLC</u> Defendant(s)/Respondent(s): <u>Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, ABJ Adjusters, Inc. and James Potter</u> (Attach additional page as necessary to list all parties)		<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____	
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract		Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)
<input checked="" type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input checked="" type="checkbox"/> Fraud/Misrepresentation <input checked="" type="checkbox"/> Other Debt/Contract: <u>Breach of Contract</u> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____		<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order Parent-Child Interactions <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
Employment		Other Civil			
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____		<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____			
Tax		Probate & Mental Health			
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____		Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____			
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case):					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

AFFIDAVIT OF SERVICE

Filed
9/12/2017 1:46 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

State of Texas

County of Nueces

County At Law # 2 Court

Case Number: 2017CCV-61631-2

Plaintiff:
HERRMAN PROPERTIES LLC



Herrman Properties

vs.

Defendant:
**STAR STONE NATIONAL INSURANCE COMPANY, WELLINGTON CLAIMS SERVICES
INC, MICHAEL MASSEY, ABJ ADJUSTERS INC AND JAMES POTTER**

For:
Neely Balko
Herrman & Herrman
1201 Third Street
Corpus Christi, TX 78404

Received by Allen Civil Process on the 11th day of September, 2017 at 12:56 pm to be served on Wellington Claims Services Inc
Registered Agent: CORPORATION SERVICE COMPANY, 211 East 7th Suite 620, Austin, Travis County, TX 78701.

I, Dane R. Cuppett, being duly sworn, depose and say that on the 11th day of September, 2017 at 2:15 pm, I:

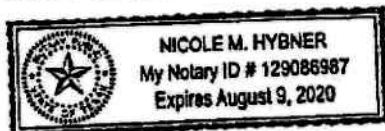
delivered to REGISTERED AGENT by delivering a true copy of the . Citation and Plaintiffs Original Petition and Request For
Disclosure and .Civil Case Information Sheet with the date of service endorsed thereon by me, to: Kelly Courtney,
Corporation Service Company as Registered Agent at the address of: 211 E. 7th Street Suite 620, Austin, Travis County, TX
78701 on behalf of Wellington Claims Services Inc, and informed said person of the contents therein, in compliance with state
statutes.

Description of Person Served: Age: 40, Sex: M, Race/Skin Color: White, Height: 5'8, Weight: 300, Hair: Grey, Glasses: Y

I certify that I am over the age of 18, of sound mind, have no interest in the above action, and am a Certified Process Server, in good
standing, in the judicial circuit in which the process was delivered. The facts stated in this affidavit are within my personal knowledge
and are true and correct.

Subscribed and Sworn to before me on the 11th day
of September, 2017 by the affiant who is personally
known to me.

NOTARY PUBLIC



Dane R. Cuppett
SCH-7114, Exp. 10/31/19

Allen Civil Process
P.O. Box 181293
Corpus Christi, TX 78480
(800) 831-8219

Our Job Serial Number: ALN-2017005228
Ref: Herrman Properties

PU
ORIGINAL

Citation for Personal Service –RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

**TO: Wellington Claims Services, Inc.
Registered Agent, Corporation Service Company
211 East 7th Street, Suite #620
Austin, TX 78701**

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by **Neely Balko**, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404.

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.



**ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401**

BY: Nicole Hinojosa, Deputy
Nicole Hinojosa

Filed
9/18/2017 5:22 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County At Law # 2 Court

Case Number: 2017CCV-61631-2

Plaintiff:
HERRMAN PROPERTIES LLC

vs.

Defendant:
STAR STONE NATIONAL INSURANCE COMPANY, WELLINGTON CLAIMS SERVICES
INC, MICHAEL MASSEY, ABJ ADJUSTERS INC AND JAMES POTTER

For:
Neely Balco
Herrman & Herrman
1201 Third Street
Corpus Christi, TX 78404



Herrman Properties

Received by Allen Civil Process on the 11th day of September, 2017 at 12:43 pm to be served on Star Stone National Insurance Company Registered Agent: CT CORPORATION SYSTEM, 1999 Bryan Suite 900, Dallas, Dallas County, TX 75201.

I, Carlos Barrera, being duly sworn, depose and say that on the 12th day of September, 2017 at 12:00 pm, I:

EXECUTED by delivering to, Star Stone National Insurance Company, a true copy of the . Citation and Plaintiffs Original Petition and Request For Disclosure and .Civil Case Information Sheet with the date of service endorsed thereon by me, to: Terri Thongavatt , Intake Specialist at the address of: 1999 Bryan Suite 900, Dallas, Dallas County, TX 75201, who is authorized to accept service for Star Stone National Insurance Company.

Description of Person Served: Age: 30s, Sex: F, Race/Skin Color: White, Height: 5'7", Weight: 160, Hair: Light Brown, Glasses: N

I am over eighteen, not a party to nor interested in the outcome of the above numbered suit and that I am certified to serve civil process. I have personal knowledge of the facts set forth in the foregoing affidavit and declare that the statements therein contained are true and correct. I am familiar with the Rules of Civil Procedure. I have never been convicted of a Felony or Misdemeanor involving Moral Turpitude.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

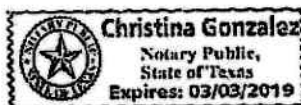
Subscribed and Sworn to before me on
the 15th day of September, 2017
by the affiant who is personally known to me.

Christina Gonzalez
NOTARY PUBLIC

Carlos Barrera
Carlos Barrera
SCH-5305 Exp: 6-30-2018

Allen Civil Process
400 Mann Street Suite 902
Corpus Christi, TX 78401
(361) 884-1857

Our Job Serial Number: ALN-2017005229
Ref: Herrman Properties



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PU

ORIGINAL

Citation for Personal Service—RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Star Stone National Insurance Company**
Registered Agent, CT Corporation System
1999 Bryan St., Suite 900
Dallas, Texas 75201-3140

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by **Neely Balko**, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404.

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.

ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

BY: Nicole Hinojosa, Deputy
Nicole Hinojosa



Filed
9/29/2017 1:35 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County At Law # 2 Court

Case Number: 2017CCV-61631-2

Plaintiff:

HERRMAN PROPERTIES LLC

vs.

Defendant:

STAR STONE NATIONAL INSURANCE COMPANY, WELLINGTON CLAIMS SERVICES INC, MICHAEL MASSEY, ABJ ADJUSTERS INC AND JAMES POTTER

For:

Neely Balko
Herrman & Herrman
1201 Third Street
Corpus Christi, TX 78404



Herrman Properties

Received by ALLEN CIVIL PROCESS on the 11th day of September, 2017 at 12:55 pm to be served on ABJ Adjusters Inc Registered Agent: WILLIAM VINCENT, 5503 Louetta Road Suite A, Spring, Harris County, TX 77379.

I, Matt Miller, being duly sworn, depose and say that on the 14th day of September, 2017 at 2:45 pm, I:

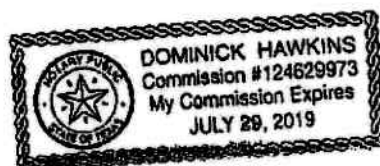
PERSONALLY delivered a true copy of the . Citation and Plaintiffs Original Petition and Request For Disclosure and .Civil Case Information Sheet with the date of service endorsed thereon by me, to: ABJ Adjusters Inc Registered Agent: WILLIAM VINCENT SR. at the address of: 5503 Louetta Road Suite A, Spring, Harris County, TX 77379, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 60S, Sex: M, Race/Skin Color: WHITE, Height: 6, Weight: 215, Hair: GRAY, Glasses: Y

I am an authorized private process server, authorized by the Texas Supreme Court. I am over the age of eighteen (18) and I am not a party to nor interested in the outcome of this lawsuit. I am of sound mind and capable of making this Affidavit. I am fully competent to testify to the matters stated herein. I am personally acquainted with the facts herein stated in this Affidavit which are true and correct.

Subscribed and Sworn to before me on the 15th day of September, 2017 by the affiant who is personally known to me.

NOTARY PUBLIC



Matt Miller
SCH-9756 EXP: 6/30/18

ALLEN CIVIL PROCESS
400 Mann Street, Suite 902
Corpus Christi, TX 78401
(361) 884-1657

Our Job Serial Number: ALN-2017005227
Ref: Herrman Properties

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pu
ORIGINAL

Citation for Personal Service –RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **ABJ Adjusters, Inc.**
Registered Agent, William Vincent
5503 Louetta Road, Suite A
Sprint, TX 77379
the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation.
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Said Petition was filed in said court by **Neely Balko**, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404 .

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.



ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

BY: Nicole Hinojosa, Deputy
Nicole Hinojosa



GAULT, NYE & QUINTANA, L.L.P.

4141 S. STAPLES ST., STE. 210
CORPUS CHRISTI, TEXAS 78411
P.O. BOX 6666
CORPUS CHRISTI, TEXAS 78466
TEL: (361) 654-7008 FAX: (361) 654-7001
www.GNQlawyers.com

Filed
9/29/2017 3:36 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

THOMAS F. NYE
BOARD CERTIFIED
CIVIL APPELLATE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

WRITER'S E-MAIL: tnye@GNQlawyers.com

September 22, 2017

Neely E. Balko
Herrman & Herrman, PLLC
1201 Third Street
Corpus Christi, Texas 78404
VIA CMRRR # 7017 1070 0000 8267 1797
Email: litigation@herrmanandherrman.com

Re: Cause No. 2017CCV-61631-2; *Herrman Properties, LLC v. StarStone National Insurance Company, Wellington Claim Service, Inc., Michael Massey, ABJ Adjusters, Inc. and James Potter*; In the County Court at Law #2, Nueces County, Texas
Claim No: TOR-91486

Dear Mr. Balko:

Wellington Claim Service, Inc., claims administrator for StarStone National Insurance Company (the "Company") received service of the captioned lawsuit on September 11, 2017. The lawsuit was the Company's first written notice of a dispute under Policy Number TNI 000008197 (the "Policy") regarding Claim Number TOR-91486 (the "Claim"). On September 12, 2017, the Company issued correspondence to your firm regarding the below-described provisions of your client's insurance policy.

The Policy requires your client to send the Company notice of all disagreements related to the Claim as a condition precedent to filing suit.

CONDITIONS

5. Events After Loss.

c. Disagreements With Our Claim Decision.

- (1) You will receive a letter stating our claim decision. If you disagree with it, promptly give us written notice of what you disagree with and why. Send your notice to the address listed in our letter.
 - (a) We will notify you when we receive your notice.
 - (b) Notice of your disagreements is not required if your disagreements are asserted in a counterclaim.
- (2) In place of the above, we will treat the following as notice of your disagreements:

MCALLEN OFFICE
4900 N. 10TH ST., STE. A1
MCALLEN, TEXAS 78504
P.O. BOX 4200 • EDINBURG, TEXAS 78540
TEL: (956) 618-0628 FAX: (956) 618-0670

BROWNSVILLE OFFICE
114 JEFFERSON ST., STE. A
BROWNSVILLE, TEXAS 78520
P.O. BOX 5959 • BROWNSVILLE, TEXAS 78523
TEL: (956) 544-7110 FAX: (956) 544-0607

Neely E. Balko
TOR-91486 – Herrman Properties v. StarStone et al.
September 22, 2017
Page 2

- (a) a written request for appraisal; or
- (b) a written notice of your disagreements to our agent if we receive a copy; or
- (c) a written notice of action under Texas Insurance Code, Chapter 541.
- (3) We have 15 days after we receive your notice to request information from you, and you must provide the information we request. We may request the following:
 - (a) documents that show money you spent or may spend if they are related to your disagreements and we do not already have them.
 - (b) an oral or signed written statement about your disagreements.
 - (c) an examination under oath about your disagreements, which you must sign. Any examination will be separate from other insureds.
 - (d) inspection of the property that is related to your disagreements. Before we inspect, we can require your statement and examination under oath.
- ~~(4) We will notify you in writing of our decision on your disagreements:~~
 - ~~(a) within 15 business days after we receive all of the information we requested from you; or~~
 - ~~(b) if we do not request information from you, within 15 business days after we receive notice of your disagreements.~~
- (5) You or we may request appraisal at any time, but the appraisal process will not affect either of our duties in this section. If appraisal concludes or is underway during our time to consider your disagreements, any decision on the amount of loss will be determined by the appraisal decision.

12. Suits Against Us.

- a. No suit or action can be brought unless the policy provisions have been complied with. A suit brought against us must be filed within 2 years and 1 day after the cause of action accrues.
- b. If you disagree with our claim decision, you can file suit:
 - (1) 60 days after we receive your notice of disagreements under Conditions, item 5.c.; or
 - (2) if we do not request information from you within 15 days after we receive your notice of disagreements; or
 - (3) if we do not notify you in writing of our decision on your disagreements within the time we are allowed under Conditions, item 5.c.(4); or
 - (4) after you receive our decision on your disagreements; or
 - (5) if it is necessary to prevent the statute of limitations from expiring.
- c. You can file suit before or after appraisal is requested. You and we agree that a suit must be ~~abated if appraisal is requested until appraisal is complete.~~
- d. **If You File Suit Before Complying With Policy Provisions.**
 - (1) If you file suit before you comply with the policy provisions, including providing notice of your disagreements, you and we agree:
 - ~~(a) the suit must be abated until you comply with the policy provisions, unless compliance is no longer possible; and~~
 - ~~(b) our duties under "Disagreements With Our Claim Decision" (Conditions, item 5.c.) stop until we receive notice the suit is abated.~~

Neely E. Balko
TOR-91486 – Herrman Properties v. StarStone et al.
September 22, 2017
Page 3

- (2) You comply with the policy provisions under “Disagreements With Our Claim Decision” when we:
- (a) receive notice of your disagreements;
 - (b) receive the information we request from you, if any; and
 - (c) notify you of our decision or our time to do so under Conditions, item 5.c.(4) has passed.

As you are aware, insurance policy provisions requiring an insured to perform as a condition precedent to sustaining a suit on the policy are valid. On September 12, 2017, the Company requested the information pursuant to the “Disagreements With Our Claim Decision” subheading. You and your client have not responded to this request. The Company hereby submits again the following request for information:

- > Documents that show money your client spent or may spend relating to their disagreements. This may include, for example, estimates, invoices, and receipts. You do not need to give us documents that you know are in our possession. If you are unsure about this request, our examiner can provide assistance.
Additionally, please provide:
 - A copy of each rental contract between Herrman Properties, LLC, and each of the tenants that have leased the property at 719 Ayers St., Corpus Christi, TX 78401.
 - A copy of the eviction notice served upon the tenant alleged to have committed the act of vandalism complained of in the lawsuit.
 - Current contact information of the tenant alleged to have committed the act of vandalism complained of in the lawsuit.
 - Photos of the subject property taken prior to the most recent tenant’s move-in.
 - A copy of any pre-sale inspection report associated with purchase of the property at 719 Ayers St., Corpus Christi, TX 78401.
 - A copy of any seller’s disclosure associated with the purchase of the property at 719 Ayers St., Corpus Christi, TX 78401.
- > An oral statement from Business Operations Manager Debra Garcia about your client’s disagreements. This will be a recording taken at your convenience during a telephone call with our examiner.
- > ~~Inspection of the property that is related to your client’s disagreements. This inspection will occur after your client’s oral statement. Either you or a person you select that has knowledge of your client’s claim and can speak on her behalf should be present during the inspection. However, if no one is present for the inspection, we may still elect to continue with any scheduled exterior inspection unless you tell us otherwise.~~
- > An examination under oath about your client’s disagreements. We may at our discretion offer to substitute this request with a writing of your oral statement referenced above if she agrees to sign and swear to it.

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TOR-91486 – Herrman Properties v. StarStone et al.
September 22, 2017
Page 4

By making this information request, the Company does not and has not waived any rights, conditions, or provisions contained in the Policy. The Company is merely extending a good faith gesture to allow your client an opportunity to comply with the foregoing condition precedent. We request your cooperation in arranging for the exchange of this information, which your clients are contractually required to provide.

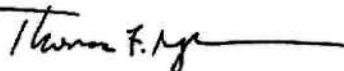
We additionally note that it is well established under Texas law that abatement is the appropriate remedy to enforce an insured's compliance with a condition precedent after suit is filed. Furthermore, the Policy requires abatement until such time as the conditions precedent are satisfied.

So as to avoid engaging the Court in a clear contractual condition precedent, the Company requests that you agree to an abatement of the captioned lawsuit until such time as the foregoing ~~condition precedent is satisfied. Should you agree to this abatement, please sign below and return this~~ letter to me at your earliest convenience. This letter will then serve as a **Rule 11 Agreement**. Thank you for your professionalism in this regard.

If a signed copy of this letter is not received within seven days, we will use the absence of your signature on this letter as our Certificate of Conference in support of a Motion to Compel and abate.

While the suit is abated, the Company's claims administrator – Wellington Claim Service, Inc. – will deal with you and your client directly without the involvement of the firm for the undersigned. You have our agreement that such direct communications may and should occur for that period of time.

Sincerely yours,



Thomas F. Nye
Counsel for Defendant
StarStone National Insurance Company

Agreed to this 29 day of September, 2017:

By: 

Printed Name: Neely Balko

Herrman & Herrman, PLLC

CAUSE NO. 2017CCV-61631-2

HERRMAN PROPERTIES, LLC	§	IN THE COUNTY COURT
	§	
V.	§	
	§	AT LAW NO. 2
STARSTONE NATIONAL INSURANCE	§	
COMPANY, WELLINGTON CLAIMS	§	
SERVICES, INC., MICHAEL MASSEY, ABJ	§	
ADJUSTERS, INC. AND JAMES POTTER	§	NUECES COUNTY, TEXAS

**DEFENDANT STARSTONE NATIONAL INSURANCE COMPANY, WELLINGTON
CLAIM SERVICE, INC., AND MICHAEL MASSEY'S VERIFIED ORIGINAL
ANSWER AND PLEA IN ABATEMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, STARSTONE NATIONAL INSURANCE COMPANY, WELLINGTON CLAIM SERVICE, INC., AND MICHAEL MASSEY (hereinafter "Defendants") and file this, their Verified Original Answer and plea in abatement to Plaintiff's Original Petition, and would respectfully show:

**I.
GENERAL DENIAL**

1.1 Defendants generally denies the allegations contained in Plaintiff's Original Petition, and since they are allegations of fact, Plaintiff should be required to prove them by a preponderance of the evidence in accordance with the laws of the State of Texas.

**II.
SPECIFIC DENIAL**

2.1 Defendants further pleads that Plaintiff's claims are barred and/or premature to the extent Plaintiff failed to comply with all terms and conditions of the insurance policy at issue. In particular, Plaintiff failed to comply with the "Events After Loss" section of the policy prior to filing this suit. That section requires Plaintiff to provide written notice of a disagreement specifying

what Plaintiff disagrees with and why. Within 15 days after receiving Plaintiff's notice of disagreement, Defendant may request information from the Plaintiff. More specifically, the "Events After Loss" section provides as follows:

CONDITIONS

5. Events After Loss.

c. Disagreements With Our Claim Decision.

- (1) You will receive a letter stating our claim decision. If you disagree with it, promptly give us written notice of what you disagree with and why. Send your notice to the address listed in our letter.
 - (a) We will notify you when we receive your notice.
 - (b) Notice of your disagreements is not required if your disagreements are asserted in a counterclaim.
- (2) In place of the above, we will treat the following as notice of your disagreements:
 - (a) a written request for appraisal; or
 - (b) a written notice of your disagreements to our agent if we receive a copy; or
 - (c) a written notice of action under Texas Insurance Code, Chapter 541.
- (3) We have 15 days after we receive your notice to request information from you, and you must provide the information we request. We may request the following:
 - (a) documents that show money you spent or may spend if they are related to your disagreements and we do not already have them.
 - (b) an oral or signed written statement about your disagreements.
 - (c) an examination under oath about your disagreements, which you must sign. Any examination will be separate from other insureds.
 - (d) inspection of the property that is related to your disagreements. Before we inspect, we can require your statement and examination under oath.
- (4) We will notify you in writing of our decision on your disagreements:
 - (a) within 15 business days after we receive all of the information we requested from you; or
 - (b) if we do not request information from you, within 15 business days after we receive notice of your disagreements.
- (5) You or we may request appraisal at any time, but the appraisal process will not affect either of our duties in this section. If appraisal concludes or is underway during our time to consider your disagreements, any decision on the amount of loss will be determined by the appraisal decision.

12. Suits Against Us.

- a. No suit or action can be brought unless the policy provisions have been complied with. A suit brought against us must be filed within 2 years and 1 day after the cause of action accrues.
- b. If you disagree with our claim decision, you can file suit:
 - (1) 60 days after we receive your notice of disagreements under Conditions, item 5.c.; or
 - (2) if we do not request information from you within 15 days after we receive your notice of disagreements; or
 - (3) if we do not notify you in writing of our decision on your disagreements within the time we are allowed under Conditions, item 5.c.(4); or
 - (4) after you receive our decision on your disagreements; or
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- d. **If You File Suit Before Complying With Policy Provisions.**
 - (1) If you file suit before you comply with the policy provisions, including providing notice of your disagreements, you and we agree:
 - (a) the suit must be abated until you comply with the policy provisions, unless compliance is no longer possible; and
 - (b) our duties under "Disagreements With Our Claim Decision" (Conditions, item 5.c.) stop until we receive notice the suit is abated.
 - (2) You comply with the policy provisions under "Disagreements With Our Claim Decision" when we:
 - (a) receive notice of your disagreements;
 - (b) receive the information we request from you, if any; and
 - (c) notify you of our decision or our time to do so under Conditions, item 5.c.(4) has passed.

2.2 Plaintiff's first notice of any disagreement with the claims decision came on September 11, 2017, when Defendant, Wellington Claim Service, Inc., was served with Plaintiff's Original Petition. Pursuant to the above outlined provisions of the Plaintiff's insurance policy contract, Defendant, Wellington Claim Service, Inc., issued correspondence to Plaintiff's attorney on September 12, 2017, requesting the insured to appear for an examination under oath, provide an oral statement, allow for an inspection of the property, and provide certain documents requested in accordance with the policy provisions. The undersigned counsel for Defendants sent correspondence on September 22, 2017, again requesting information from Plaintiff. Plaintiff has

failed to complete the process as required by the terms and conditions of the insurance policy at issue.

III. AFFIRMATIVE DEFENSES

3.1 Defendants deny that the conditions precedent for a contract action, DTPA cause of action or Insurance Code cause of action have been met.

3.2 Defendants plead that any damages or liabilities complained of by Plaintiff herein are the result, in whole or in part, of a peril which is specifically excluded by the policy.

3.3 Defendants further plead that Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to mitigate its damages.

3.4 Defendants further plead as an affirmative defense to Plaintiff's claims for violations of the Texas Insurance Code and breach of duty of good faith and fair dealing, that a bona fide dispute exists with respect to the policy issued to Plaintiff. The existence of a bona fide dispute precludes recovery on any extra-contractual claims.

IV. PLEA IN ABATEMENT

4.1 Plaintiff has asserted claims against Defendants pursuant to Chapter 17.50 of the Texas Business & Commerce Code (also referred to as the "DTPA") in Plaintiff's Original Petition. As a prerequisite to filing a suit seeking damages pursuant to the DTPA, a claimant shall give written notice at least sixty (60) days prior to filing suit. A Defendant against whom a suit is pending who does not receive adequate written notice may file a plea in abatement. TEX. BUS. & COM. CODE §17.505(Vernon 1987).

4.2 Defendants have not received adequate written notice in compliance with the requirements of the DTPA.

4.3 Accordingly, Defendants request that this Court abate this case as provided by Section 17.505(d) of the Texas Business & Commerce Code.

V.
PLEA IN ABATEMENT

5.1 In Plaintiff's Original Petition, Plaintiff has also alleged causes of action pursuant to Chapter 541 of the Texas Insurance Code. Chapter 541.154 provides, in pertinent part, "[a] person seeking damages in an action against another person under this subchapter must provide written notice to the other person not later than the 61st day before the date the action is filed." TEX. INS. CODE §541.154 (Vernon Supp 2005). Additionally, Chapter 541.155 of the Texas Insurance Code provides that the Court shall abate the action if the Court finds that the claimant failed to provide the requisite notice. TEX. INS. CODE §541.155 (Vernon Supp 2005).

5.2 Defendant has not received adequate written notice in compliance with the requirements of the Texas Insurance Code.

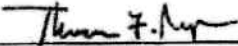
5.3 Accordingly, Defendant is also entitled to an abatement of these proceedings pursuant to Chapter 541 of the Texas Insurance Code.

VI.
PRAYER

WHEREFORE, Defendants StarStone National Insurance Company, Wellington Claim Service, Inc., and Michael Massey respectfully pray that Plaintiff takes nothing by its suit herein, and for all other relief to which Defendants are justly entitled.

Respectfully submitted,

Gault, Nye & Quintana, L.L.P.
P.O. Box 6666
Corpus Christi, Texas 78466
(361) 654-7008
(361) 654-7001 Telecopier
tnye@gntlawyers.com

By: 
Thomas F. Nye
State Bar No. 15154025

ATTORNEY FOR DEFENDANTS STARSTONE
NATIONAL INSURANCE COMPANY,
WELLINGTON CLAIM SERVICE, INC., AND
MICHAEL MASSEY

CERTIFICATE OF SERVICE

I, Thomas F. Nye, hereby certify that on the 29th day of September, 2017, a true and correct copy of the above and foregoing document was served upon the following counsel as indicated:

Attorney for Plaintiff
Neely E. Balko
Herrman & Herrman, PLLC
Email: litigation@herrmanandherrman.com

VIA E-FILING


Thomas F. Nye

VERIFICATION

THE STATE

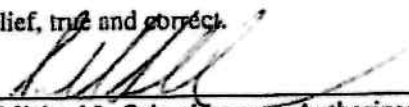
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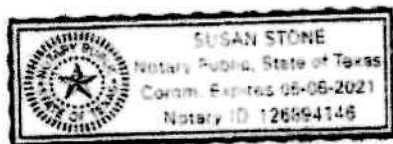
OF TEXAS


§

BEFORE ME, the undersigned notary public, on this day personally appeared Michael L. Schneiderman, being by me duly sworn on his oath deposed and said that he has read the above and foregoing pleading and the statements in paragraphs 2.1, 2.2, 4.2 and 5.2 contained therein are, to the best of his knowledge, information and belief, true and correct.


Michael L. Schneiderman, Authorized Agent
for StarStone National Insurance Company
and Wellington Claim Service, Inc.

SWORN TO AND SUBSCRIBED TO BEFORE ME, on this the 29th day of September, 2017, to witness my hand and official seal of office.




Notary Public in and for
the State of Texas

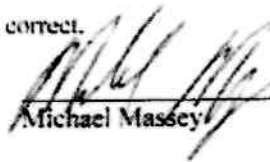
VERIFICATION

THE STATE

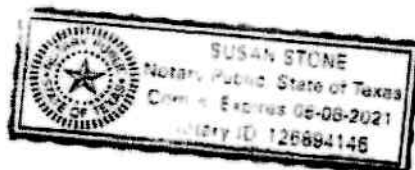
OF TEXAS


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BEFORE ME, the undersigned notary public, on this day personally appeared Michael Massey, being by me duly sworn on his oath depose and said that he has read the above and foregoing pleading and the statements in paragraphs 4.2 and 5.2 contained therein are, to the best of his knowledge, information and belief, true and correct.


Michael Massey

SWORN TO AND SUBSCRIBED TO BEFORE ME, on this the *29th* day of September, 2017, to witness my hand and official seal of office.




Notary Public in and for
the State of Texas



UTERMAN PROPERTIES, LLC, SNA, et al. DOA VERIFIED & PLA. SMC, WCN & MASSEY - PAGE 33 OF 38

Filed
9/29/2017 4:05 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

CAUSE NO. 2017CCV-61631-2

HERRMAN PROPERTIES, LLC	§	IN THE COUNTY COURT
	§	
V.	§	
	§	AT LAW NO. 2
STARSTONE NATIONAL INSURANCE	§	
COMPANY, WELLINGTON CLAIMS	§	
SERVICES, INC., MICHAEL MASSEY, ABJ	§	
ADJUSTERS, INC. AND JAMES POTTER	§	NUECES COUNTY, TEXAS

DEFENDANTS' DEMAND FOR JURY

COME NOW, STARSTONE NATIONAL INSURANCE COMPANY, WELLINGTON CLAIM SERVICE, INC., AND MICHAEL MASSEY, Defendants in the above-referenced cause, and demand a trial by jury. The jury fee has previously been paid by the Plaintiff.

Respectfully submitted,

Gault, Nye & Quintana, L.L.P.
P.O. Box 6666
Corpus Christi, Texas 78466
(361) 654-7008
(361) 654-7001 Telecopier
tnye@gnqlawyers.com

By: Thomas F. Nye
Thomas F. Nye
State Bar No. 15154025

ATTORNEY FOR DEFENDANTS STARSTONE
NATIONAL INSURANCE COMPANY, WELLINGTON
CLAIM SERVICE, INC., AND MICHAEL MASSEY

CERTIFICATE OF SERVICE

I, Thomas F. Nye, hereby certify that on the 29th day of September, 2107, a true and correct copy of the above and foregoing document was served upon the following counsel as indicated:

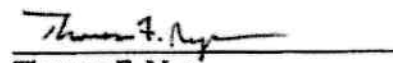
Attorney for Plaintiff

Neely E. Balko

Herrman & Herrman, PLLC

Email: litigation@herrmanandherrman.com

VIA E-FILING


Thomas F. Nye

Filed
9/18/2017 5:22 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County At Law # 2 Court

Case Number: 2017CCV-61631-2

Plaintiff:
HERRMAN PROPERTIES LLC



vs.

Defendant:
STAR STONE NATIONAL INSURANCE COMPANY, WELLINGTON CLAIMS SERVICES
INC, MICHAEL MASSEY, ABJ ADJUSTERS INC AND JAMES POTTER

For:
Neely Balko
Herman & Herman
1201 Third Street
Corpus Christi, TX 78404

Received by Allen Civil Process on the 11th day of September, 2017 at 12:43 pm to be served on Star Stone National Insurance Company Registered Agent: CT CORPORATION SYSTEM, 1999 Bryan Suite 900, Dallas, Dallas County, TX 75201.

I, Carlos Barrera, being duly sworn, depose and say that on the 12th day of September, 2017 at 12:00 pm, I:

EXECUTED by delivering to, Star Stone National Insurance Company, a true copy of the . Citation and Plaintiffs Original Petition and Request For Disclosure and Civil Case Information Sheet with the date of service endorsed thereon by me, to: Terri Thongsevat, Intake Specialist at the address of: 1999 Bryan Suite 900, Dallas, Dallas County, TX 75201, who is authorized to accept service for Star Stone National Insurance Company.

Description of Person Served: Age: 30s, Sex: F, Race/Skin Color: White, Height: 5'7", Weight: 160, Hair: Light Brown, Glasses: N

I am over eighteen, not a party to nor interested in the outcome of the above numbered suit and that I am certified to serve civil process. I have personal knowledge of the facts set forth in the foregoing affidavit and declare that the statements therein contained are true and correct. I am familiar with the Rules of Civil Procedure. I have never been convicted of a Felony or Misdemeanor involving Moral Turpitude.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Subscribed and Sworn to before me on
the 12th day of September, 2017
by the affiant who is personally known to me.

NOTARY PUBLIC



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Carlos Barrera
Carlos Barrera
SCH-5305 Exp: 6-30-2018

Allen Civil Process
400 Mann Street Suite 902
Corpus Christi, TX 78401
(361) 884-1857

Our Job Serial Number: ALN-2017005229
Ref: Herman Properties



PU
ORIGINAL

Citation for Personal Service –RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: Star Stone National Insurance Company
Registered Agent, CT Corporation System
1999 Bryan St., Suite 900
Dallas, Texas 75201-3140

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by Neely Balko, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404.

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.

ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

BY: Nicole Hinojosa, Deputy
Nicole Hinojosa



Citation for Personal Service –RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Star Stone National Insurance Company**
Registered Agent, CT Corporation System
1999 Bryan St., Suite 900
Dallas, Texas 75201-3140

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by Neely Balko, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404 .

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.



ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

BY:

COPY

Deputy

COPY

RETURN OF SERVICE

2017CCV-61631-2

**HERRMAN PROPERTIES, LLC
VS.**

COUNTY COURT AT LAW #2

**STAR STONE NATIONAL INSURANCE
COMPANY, WELLINGTON CLAIMS
SERVICES, INC., MICHAEL MASSEY,
ET AL**

Name _____

ADDRESS FOR SERVICE**Star Stone National Insurance Company
Registered Agent, CT Corporation System
1999 Bryan St., Suite 900
Dallas, Texas 75201-3140****OFFICER'S OR AUTHORIZED PERSON'S RETURN**

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____, m., and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this citation with the date of delivery endorsed thereon, together with the accompanying copy of the _____, at the following times and places, to-wit:

NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

Fees:	_____	Officer
Serving Petition and Copy \$ _____	_____	County, Texas
Total \$ _____	By _____	Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my
(First, Middle, Last)address is _____
(Street, City, State, Zip, Country)**I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.**

Executed in _____ County, State of _____, on the _____ day of _____, 20____.

Declarant / Authorized Process Server _____

ID# & Expiration of Certification _____

AFFIDAVIT OF SERVICE

Filed
9/12/2017 1:46 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

State of Texas

County of Nueces

County At Law # 2 Court

Case Number: 2017CCV-61631-2

Plaintiff:
HERRMAN PROPERTIES LLC



vs.

Defendant:
STAR STONE NATIONAL INSURANCE COMPANY, WELLINGTON CLAIMS SERVICES
INC, MICHAEL MASSEY, ABJ ADJUSTERS INC AND JAMES POTTER

For:
Neely Balko
Herrman & Herrman
1201 Third Street
Corpus Christi, TX 78404

Received by Allen Civil Process on the 11th day of September, 2017 at 12:56 pm to be served on Wellington Claims Services Inc
Registered Agent: CORPORATION SERVICE COMPANY, 211 East 7th Suite 620, Austin, Travis County, TX 78701.

I, Dane R. Cuppett, being duly sworn, depose and say that on the 11th day of September, 2017 at 2:15 pm, I:

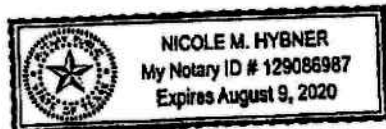
delivered to REGISTERED AGENT by delivering a true copy of the . Citation and Plaintiffs Original Petition and Request For
Disclosure and .Civil Case Information Sheet with the date of service endorsed thereon by me, to: Kelly Courtney,
Corporation Service Company as Registered Agent at the address of: 211 E. 7th Street Suite 620, Austin, Travis County, TX
78701 on behalf of Wellington Claims Services Inc, and informed said person of the contents therein, in compliance with state
statutes.

Description of Person Served: Age: 40, Sex: M, Race/Skin Color: White, Height: 5'8, Weight: 300, Hair: Grey, Glasses: Y

I certify that I am over the age of 18, of sound mind, have no interest in the above action, and am a Certified Process Server, in good
standing, in the judicial circuit in which the process was delivered. The facts stated in this affidavit are within my personal knowledge
and are true and correct.

Subscribed and Sworn to before me on the 11th day
of September, 2017 by the affiant who is personally
known to me.

A handwritten signature in black ink, appearing to read "Nicole M. Hybner".
NOTARY PUBLIC



A handwritten signature in black ink, appearing to read "Dane R. Cuppett".
Dane R. Cuppett
SCH-7114, Exp. 10/31/19

Allen Civil Process
P.O. Box 181293
Corpus Christi, TX 78480
(800) 831-8219

Our Job Serial Number: ALN-2017005228
Ref: Herrman Properties

DU
ORIGINAL

Citation for Personal Service –RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

**TO: Wellington Claims Services, Inc.
Registered Agent, Corporation Service Company
211 East 7th Street, Suite #620
Austin, TX 78701**

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by **Neely Balko**, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404 .

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.

**ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401**

BY: Nicole Hinojosa, Deputy
Nicole Hinojosa



Citation for Personal Service -RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Wellington Claims Services, Inc.**
Registered Agent, Corporation Service Company
211 East 7th Street, Suite #620
Austin, TX 78701

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by Neely Balko, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404 .

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.



ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

B

COPY

_____, Deputy

COPY

RETURN OF SERVICE

2017CCV-61631-2

HERRMAN PROPERTIES, LLC

COUNTY COURT AT LAW #2

VS.

STAR STONE NATIONAL INSURANCE
COMPANY, WELLINGTON CLAIMS
SERVICES, INC., MICHAEL MASSEY,
ET AL

Name _____

ADDRESS FOR SERVICE

Wellington Claims Services, Inc.
Registered Agent, Corporation Service Company
211 East 7th Street, Suite #620
Austin, TX 78701

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20____, at _____ o'clock ____ m., and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this citation with the date of delivery endorsed thereon, together with the accompanying copy of the _____, at the following times and places, to-wit:

NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

Fees: _____

Serving Petition and Copy \$ _____

Total \$ _____

_____ Officer

_____ County, Texas

By _____ Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my
(First, Middle, Last)

address is _____
(Street, City, State, Zip, Country)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of
of _____, 20____.

Declarant / Authorized Process Server _____

ID# & Expiration of Certification _____

ANNE LORENTZEN
DISTRICT CLERK



Certificate of
Return of Service

DISTRICT COURTS / COUNTY COURTS AT LAW

901 LEOPARD STREET, ROOM 313

CORPUS CHRISTI, TEXAS 78401

361 888-0450 Fax 888-0571

Cause Number 2017CCV-61631-2

Style: Herrman Properties, LLC

vs.

Star Stone National Insurance Company, Wellington Claims Services,
Inc., Michael Massey, et al

Pursuant to the Texas Rules of Civil Procedure, the undersigned certifies this cause.
Service was issued:

To: Michael Massey

Wellington Claims Services Inc

Po Box 1116

Fort Worth Tx 76101

On (Date Issued) 09/07/2017

and served on: 09/11/2017

or returned unserved _____

By Certified or Registered Mail. The returned receipt is attached to this form and was filed in
this office on: 9/15/2017



ANNE LORENTZEN, DISTRICT CLERK

NUECES COUNTY, TEXAS

901 LEOPARD STREET, ROOM 313

CORPUS CHRISTI, TEXAS 78401

BY: Canzady Allerton

Canzady Allerton Deputy

Date 9/15/2017

ER: COMPLETE THIS SECTION

plete items 1, 2, and 3,
your name and address on the reverse
at we can return the card to you.

in this card to the back of the mailpiece,
the front if space permits.

Addressed to:

Macl Massey

Hington Claims Services, Inc.

Box 1116

Worth, TX. 76101



590 9402 3161 7166 7577 09

Number Transfer from service label

017 1450 0001 3746 5472

2811 Lnk, ON1E DON 7EEN NO ANN ONES

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Rebecca Smith*

☒ A
☒ A

B. Received by (Printed Name)

C. Date of

SEP 11

D. Is delivery address different from item 1? ☒ YES
If YES, enter delivery address below: ☐ NO

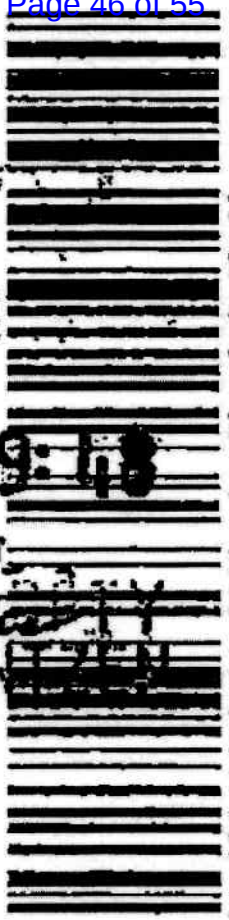
3. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail E |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail |
| <input checked="" type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input checked="" type="checkbox"/> Signature Confirmation |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |

Mail Restricted Delivery

Domestic Delivery

USPS TRACKING#



First-Class Mail
Postage & Fees
USPS
Permit No. G-11

590 9402 3167 7168 7577 09

United States
Postal Service

CLERK
DISTRICT
CLERK

2017 SEP 11
Please print your name, address, and ZIP+4® in this box.
JANE LORENTZEN, DISTRICT CLERK
DISTRICT COURTS / COUNTY COURTS AT LAW
P.O. BOX 2987
CORPUS CHRISTI, TX 78403

2017cv-01631-2 (Alt.) m.H

POSTNET barcode

ORIGINAL

Citation for Personal Service –RESIDENT NOTICE (CERTIFIED MAIL)

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **Michael Massey**
Wellington Claims Services, Inc.
PO Box 1116
Fort Worth, Texas 76101
the Defendant,

GREETING: You are commanded to appear by filing a written answer to the Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by Neely Balko, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404 .

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.



ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

BY: Nicole Hinojosa, Deputy
Nicole Hinojosa

RETURN OF SERVICE

2017CCV-61631-2

HERRMAN PROPERTIES, LLC
VS.
STAR STONE NATIONAL INSURANCE
COMPANY, WELLINGTON CLAIMS
SERVICES, INC., MICHAEL MASSEY,
ET AL

COUNTY COURT AT LAW #2

Name _____

ADDRESS FOR SERVICE

Michael Massey
Wellington Claims Services, Inc.
PO Box 1116
Fort Worth, TX 76101

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20____, at _____ o'clock ____ m., and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this citation with the date of delivery endorsed thereon, together with the accompanying copy of the _____, at the following times and places, to-wit:

NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE

And not executed as to the defendant(s), _____
 The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

Fees:	_____	Officer
Serving Petition and Copy \$	_____	County, Texas
Total \$	_____	By _____ Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my
 (First, Middle, Last)

address is _____
 (Street, City, State, Zip, Country)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of
 of _____, 20____.

 Declarant / Authorized Process Server

 ID# & Expiration of Certification

CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box and fee as appropriate)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$

Sent To

Michael Messer
Williamson Claims Services, Inc.
Street and Apt. No., or PO Box No.
PO Box 1116

City, State, ZIP+4®

TX 76101

Postmark
Here

Citation for Personal Service—RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

COPY

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **ABJ Adjusters, Inc.**
Registered Agent, William Vincent
5503 Louetta Road, Suite A
Sprint, TX 77379
the Defendant,

GREETING: You are commanded to appear by filing a written answer to the Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by Neely Balko, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404 .

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.



ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

BY:

COPY

Deputy

RETURN OF SERVICE

2017CCV-61631-2

HERRMAN PROPERTIES, LLC**COUNTY COURT AT LAW #2****VS.****STAR STONE NATIONAL INSURANCE
COMPANY, WELLINGTON CLAIMS
SERVICES, INC., MICHAEL MASSEY,
ET AL**

Name _____

ADDRESS FOR SERVICE**ABJ Adjusters, Inc.****Registered Agent, William Vincent****5503 Louetta Road, Suite A****Sprint, TX 77379****OFFICER'S OR AUTHORIZED PERSON'S RETURN**

Came to hand on the _____ day of _____, 20____, at _____ o'clock ____ m., and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this citation with the date of delivery endorsed thereon, together with the accompanying copy of the _____, at the following times and places, to-wit:

NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE
_____	_____	_____

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

Fees: _____

Serving Petition and Copy \$ _____

Total \$ _____

_____, Officer

_____, County, Texas

By _____, Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my
(First, Middle, Last)

address is _____
(Street, City, State, Zip, Country)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of
of _____, 20____.

Declarant / Authorized Process Server

ID# & Expiration of Certification

Filed
9/29/2017 1:35 PM
Anne Lorentzen
District Clerk
Nueces County, Texas

AFFIDAVIT OF SERVICE

State of Texas

County of Nueces

County At Law # 2 Court

Case Number: 2017CCV-61631-2

Plaintiff:
HERRMAN PROPERTIES LLC



Herrman Properties

vs.

Defendant:
STAR STONE NATIONAL INSURANCE COMPANY, WELLINGTON CLAIMS SERVICES INC, MICHAEL MASSEY, ABJ ADJUSTERS INC AND JAMES POTTER

For:
Neely Balko
Herrman & Herrman
1201 Third Street
Corpus Christi, TX 78404

Received by ALLEN CIVIL PROCESS on the 11th day of September, 2017 at 12:55 pm to be served on ABJ Adjusters Inc Registered Agent: WILLIAM VINCENT, 5503 Louetta Road Suite A, Spring, Harris County, TX 77379.

I, Matt Miller, being duly sworn, depose and say that on the 14th day of September, 2017 at 2:45 pm, I:

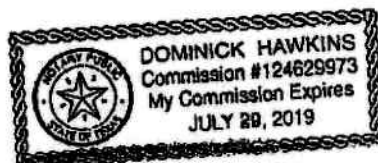
PERSONALLY delivered a true copy of the . Citation and Plaintiffs Original Petition and Request For Disclosure and .Civil Case Information Sheet with the date of service endorsed thereon by me, to: ABJ Adjusters Inc Registered Agent: WILLIAM VINCENT SR. at the address of: 5503 Louetta Road Suite A, Spring, Harris County, TX 77379, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 60S, Sex: M, Race/Skin Color: WHITE, Height: 6, Weight: 215, Hair: GRAY, Glasses: Y

I am an authorized private process server, authorized by the Texas Supreme Court. I am over the age of eighteen (18) and I am not a party to nor interested in the outcome of this lawsuit. I am of sound mind and capable of making this Affidavit. I am fully competent to testify to the matters stated herein. I am personally acquainted with the facts herein stated in this Affidavit which are true and correct.

Subscribed and Sworn to before me on the 15th day of September, 2017 by the affiant who is personally known to me.

NOTARY PUBLIC



Matt Miller
SCH-9756 EXP: 6/30/18

ALLEN CIVIL PROCESS
400 Mann Street, Suite 902
Corpus Christi, TX 78401
(361) 884-1657

Our Job Serial Number: ALN-2017005227
Ref: Herrman Properties

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Citation for Personal Service - RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: ABJ Adjusters, Inc.
Registered Agent, William Vincent
5503 Louetta Road, Suite A
Sprint, TX 77379

the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by **Neely Balko**, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404 .

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.



ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

BY: Nicole Hinojosa Deputy
Nicole Hinojosa

pu
ORIGINAL

COPY

Citation for Personal Service – RESIDENT NOTICE

Case Number: **2017CCV-61631-2**

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO: **James Potter**
ABJ Adjusters, Inc.
4814 Cain Drive B
Corpus Christi, Texas 78411
the Defendant,

GREETING: You are commanded to appear by filing a written answer to the **Plaintiff's Original Petition And Request For Disclosure; Civil Case Information Sheet** at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service of this citation before the **Honorable Lisa Gonzales, County Court at Law #2** of Nueces County, Texas at the Courthouse of said County in Corpus Christi, Texas. Said Petition was filed on the 31st day of August, 2017. A copy of same accompanies this citation. The file number of said suit being Number: **2017CCV-61631-2**

The style of the case is: **Herrman Properties, LLC vs. Star Stone National Insurance Company, Wellington Claims Services, Inc., Michael Massey, et al**

Said Petition was filed in said court by **Neely Balke**, attorney for Plaintiff, whose address is The Herrman Building 1201 Third Street Corpus Christi Tx 78404.

The nature of the demand is fully shown by a true and correct copy of the Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to requirement of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said court at Corpus Christi, Texas, this 7th day of September, 2017.



ANNE LORENTZEN, DISTRICT CLERK
NUECES COUNTY, TEXAS
901 LEOPARD STREET, ROOM 313
CORPUS CHRISTI, TEXAS 78401

BY:

Deputy

COPY

RETURN OF SERVICE

2017CCV-61631-2

HERRMAN PROPERTIES, LLC
VS.
STAR STONE NATIONAL INSURANCE
COMPANY, WELLINGTON CLAIMS
SERVICES, INC., MICHAEL MASSEY,
ET AL

COUNTY COURT AT LAW #2

Name _____

ADDRESS FOR SERVICE

James Potter
ABJ Adjusters, Inc.
4814 Cain Drive B
Corpus Christi, Texas 78411

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20____, at _____ o'clock ____ m., and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this citation with the date of delivery endorsed thereon, together with the accompanying copy of the _____, at the following times and places, to-wit:

NAME	DATE/TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE
_____	_____	_____

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

Fees:	_____	Officer
Serving Petition and Copy \$	_____	County, Texas
Total \$	_____	By _____ Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my
 (First, Middle, Last)

address is _____
 (Street, City, State, Zip, Country)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of
 of _____, 20____.

Declarant / Authorized Process Server

ID# & Expiration of Certification